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May 14, 1979

Honorable Scott M. Matheson  
Governor  
State of Utah  
State Capitol Building  
Salt Lake City, Utah 84111

Dear Governor Matheson:

Representative John M. Garr of the Utah House of Representatives has kindly consented to deliver this letter and the enclosed materials to you for your consideration. These materials relate to the requirement imposed by the U.S. Nuclear Regulatory Commission ("NRC") on Atlas Corporation ("Atlas") to secure from the Utah Board of Oil, Gas and Mining (the "Board") a surety or other arrangement satisfactory to the State of Utah covering reclamation of Atlas' uranium processing mill and associated tailings area at Moab, Utah. This letter details the background of our request and encloses a draft executive order authorizing the Board to approve the reclamation agreement proposed by Atlas in satisfaction of the NRC's requirement. In addition, we have enclosed a copy of a July 25, 1978 letter from the NRC to Atlas with regard to the surety requirement and a copy of Source Material License No. SUA-917, effective April 30, 1979, covering operations at the mill.

The Atlas uranium mill is located three miles northwest of Moab and employs some 221 persons from the Moab area. The mill has processed ores both from mines owned or operated by Atlas and from other mines in the area since the mill commenced operations in October, 1956. The mill has operated under a source material license first issued by the Atomic Energy Commission, which has been renewed on a periodic basis. Atlas applied for the latest renewal of its source material license in 1972. The renewal application was not approved until April, 1979, following extensive environmental and technical reviews



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of actual and proposed operations at the mill.

On July 25, 1978, prior to approval of the license renewal application, the NRC sent to Atlas an amendment to its source material license requiring, among other things, the following:

The licensee shall initiate surety arrangements for the reclamation and decommissioning program [at the mill] with the State of Utah, Department of Natural Resources, by September 30, 1978.

The source material license itself, as renewed by the NRC effective April 30, 1979, provides in Condition No. 24 as follows:

The licensee shall submit to the U.S. NRC, Washington, D.C. 20555 a copy of the Surety Arrangements with the State of Utah, covering mill decommissioning and mill site and tailings area reclamation as well as supporting documentation showing a breakdown of the costs associated with reclaiming the mill and the tailings area within six months of the issuance of this license renewal. The licensee will send a copy of any future revision to these surety arrangements to the same office within 30 days of the revision.

The NRC will not terminate the license until final reclamation meets Utah standards and the surety bond is released according to state regulations.

In order to comply with this condition of the license, Atlas has prepared for submission to the Board a proposed reclamation agreement, which obligates Atlas to reclaim the mill as required by the renewed license following the permanent cessation of active operations at the mill or else pay to the Board the amounts necessary to complete the reclamation required by the license.

The Utah Mined Land Reclamation Act (Utah Code Ann. §40-8-1 through 40-8-23) (the "Act") gives the Board authority to require bonding, surety arrangements or reclamation contracts covering reclamation of lands affected by mining operations in



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Utah. The term "mining operations" is defined in the Act to include "those activities conducted on the surface of the land for the exploration for, development of, or the extraction of a mineral deposit from its natural occurrences . . . including on-site transportation, concentrating, milling, evaporation, and other primary processing. It does not include . . . off-site operations or transportation" (Utah Code Ann. §40-8-4(6)). The foregoing definition would appear to exclude the Moab mill from the coverage of the Act, a conclusion which is shared by the staff of the Division of Oil, Gas and Mining, which will make the recommendation to the Board to approve or disapprove the proposed reclamation agreement. As a result, in order to secure approval of the proposed reclamation agreement, it will be necessary to convince the Board that its jurisdiction to approve the proposed reclamation agreement arises from a source of authority other than the Act. Such a source is found in Utah Code Ann. §20-25-4(a) which provides:

The governor, on behalf of this state, is authorized to enter into agreements with the federal government providing for discontinuances of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by the state.

The requirement imposed by the NRC as a condition of the license that Atlas secure approval of a surety arrangement from the State of Utah covering reclamation of the mill is in effect a delegation by the NRC to the State of certain of the NRC's responsibilities with respect to regulation of the mill as a source of ionizing radiation. Under Utah Code Ann. §20-25-4(a), the Governor has the authority to accept that delegation of responsibility on behalf of the State and to designate the appropriate State agency to administer said delegation of responsibility. The Board has had ample experience in considering reclamation bonds, sureties and contracts in connection with its duties under the Act as described above. Therefore, we request that an executive order be issued which designates the Board as the State agency authorized to approve the reclamation agreement proposed by Atlas.

We should note at this point that the failure to secure approval of the reclamation agreement will likely result in a re-



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quirement by the NRC that an unrealistically expensive surety or bond be submitted to it for approval or in the suspension by the NRC of operations at the mill because of failure to comply with a condition of the license. Either alternative would cause economic hardship to Atlas and possibly to the employees at the mill.

Enclosed herewith is a draft executive order that would authorize the Board to approve Atlas' proposed reclamation agreement. You will note that the designation of authority in the draft executive order only relates to the Atlas mill because the delegation of responsibility by the NRC to the State under Atlas' source material license only covers the Atlas mill.

We hope to submit our proposed reclamation agreement to the Board for consideration at its May 23 meeting. As a result, we would appreciate an early decision on this matter.

We wish to express our appreciation for your consideration of this matter. If we can be of any assistance or answer any questions with regard to this matter, please let us know.

Very truly yours,



James A. Holtkamp

JAH/as

Enclosures

cc: Honorable John M. Garr  
Mr. Ronald Daniels  
Denise Dragoo, Esq.  
Mr. E. R. Farley  
Mr. A. E. Dearth  
Mr. Mark Wellman